

REMARKSI. Introduction

In response to the Office Action dated June 21, 2005, no claims have been canceled, amended or added. Claims 1-10, 12-25 and 27-30 remain in the application. Re-examination and re-consideration of the application is requested.

II. Prior Art Rejections

On page (2) of the Office Action, claims 1, 3-6, 12-16, 18, 20-21, 27-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tayloe et al. (Tayloe), U.S. Patent No. 5,095,500 in view of Velazquez et al. (Velazquez), U.S. Patent No. 6,512,481. On page (6) of the Office Action, claims 2, 4, 7-10, 17, 19, 22, and 23-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tayloe and Velazquez further in view of Montoya, U.S. Patent No. 6,400,943.

Applicants' attorney respectfully traverses these rejections. Specifically, Applicants' attorney submits herewith a Declaration under 37 C.F.R. §1.131 by David J.Y. Lee to eliminate Velazquez as a reference. Co-inventor William C.Y. Lee was contacted by email, but did not return an executed Declaration.

With regard to the omitted Declaration under 37 C.F.R. §1.131 by William C.Y. Lee, M.P.E.P. §715.04 applies to the situation in hand, and indicates that the Declaration under 37 C.F.R. §1.131 by David J.Y. Lee is sufficient, by itself, to eliminate Velazquez as a reference. Specifically, M.P.E.P. §715.04 states the following:

“Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient. However, the affidavit or declaration, even though signed by fewer than all the joint inventors, must show completion of the invention by all of the joint inventors of the subject matter of the claim(s) under rejection.” (Page 700-247, second column.)

In this situation, the Declaration under 37 C.F.R. §1.131 states that the inventors are co-inventors of the subject matter described and claimed in the patent application, and that both inventors conceived the invention and thereafter diligently reduced it to practice in this country.

Moreover, Applicants' attorney sent an email to both inventors on September 21, 2005 requesting execution of the Declarations under 37 C.F.R. §1.131, using an email for William C.Y. Lee at his employer. Although Applicants' attorney has previously received emails from William C.Y. Lee from that address, Applicants' attorney never received a reply from Mr. Lee to the request

to execute the Declaration under 37 C.F.R. §1.131. However, Mr. Lee has not explicitly refused to sign the Declaration after being presented with the papers. Nonetheless, his failure to reply to the email supports a conclusion that Mr. Lee refused to sign the Declaration.

Accordingly, Applicants' attorney submits that the Declaration under 37 C.F.R. §1.131 by David J.Y. Lee is sufficient, by itself, to eliminate Velazquez as a reference.

III. Conclusion

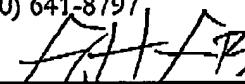
In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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